

CALIFORNIA STATE BOARD OF EQUALIZATION

CURRENT LEGAL DIGEST NO. 1066

December 21, 2004

280.0523 Entertainment Books. The Entertainment Book is a collection of coupons to various establishments, such as restaurants, movie theaters, sporting events and stores. The sale of such coupon books is not regarded to be a sale of tangible personal property. The coupons in Entertainment Books are merely evidence of an intangible right - a record or indicia of the right to services or tangible personal property at a reduced price. The sale of the Entertainment Book is not subject to sales tax. 6/30/04. (2005-1).

280.0560 "Free Goods in Exchange for Coupon. ~~The giving of a "free" bar of soap to a customer by a grocer in exchange for a coupon issued by the soap manufacturer is considered a sale, not a gift, and is, therefore, taxable, because the coupon is the consideration for the sale of the soap. The manufacturer reimburses the grocer for the value of the soap given to the customer in exchange for the coupon, which constitutes the consideration upon which the tax is computed and for which the retailer is entitled to reimbursement from his purchaser. A grocer gives a customer a "free" bar of soap in exchange for a coupon issued by the soap manufacturer. This transaction is considered to be a sale, not a gift, because the coupon represents consideration given by the soap manufacturer to the grocer for the sale of the soap. The soap manufacturer reimburses the grocer for the value of the soap given to the customer in exchange for the coupon. The value assigned to the coupon constitutes the consideration upon which the tax is computed. 11/24/69. (Am. 2005-1).~~

295.1090 Promotional Programs Involving Coupons and Rebates. Various types of promotional programs are used as an inducement to purchase merchandise. When a retailer receives an amount from a wholesaler, whether that amount is a reduction in the wholesale price (not included in gross receipts) or additional consideration for the retail sale (included in gross receipts) depends, in part, on whether the amount is an inducement to the retailer to purchase at wholesale or an inducement to the retailer's customer to purchase at retail.

When the wholesaler requires the retailer to reduce its purchase price as a condition or payment of the promotional amount, this creates an inducement for the customer to purchase the product. This alone is not enough to regard the amounts given by the wholesaler to be part of the retailer's gross receipts. However, when the wholesaler funds an inducement aimed at the retailer's customer and the amounts funded are traced to particular retail transactions through coupons or other accounting mechanisms, that is sufficient to establish that those amounts are consideration for the retail sale and must be included in gross receipts. It is not necessary for the manufacturer to produce and distribute the coupons, as long as the

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manufacturer is the funding source for the promotional coupon plan and there is an accounting mechanism that links the manufacturer's payment to particular retail sales of the retailer. 6/29/04. (2005-1).

585.0167 Qualification Period for Exclusion from Use Tax - Six-Month Test. Where an aircraft is purchased outside of California, Sales and Use Tax Regulation 1620(b)(4)(A) provides that if the aircraft is first functionally used outside of California, and subsequently brought into California within 90 days of purchase (exclusive of any time of shipment to California or time of storage for shipment to California), use tax will apply unless the aircraft is used, stored, or both used and stored outside of California one-half or more of the time during the six-month period immediately following its entry into this state.

The phrase "the six-month period immediately following its entry into this state" means the actual number of days in the six-month calendar period beginning at the time the aircraft initially crossed the California border and terminating at that same time of day six months later, e.g., beginning at some time on May 2 and terminating at the same time on November 2. The partial days that begin and end the six-month period are combined to equal one day for purposes of computing the six-month test period, not as two separate days, e.g., if the aircraft enters California at 2:00 p.m. on May 2 then the test period ends at 2:00 p.m. on November 2 without accounting for the hours prior to 2:00 p.m. on May 2 or subsequent to 2:00 p.m. on November 2. The language of the regulation references a specific 'six-month period,' i.e., the *actual* number of calendar days in the six months following the aircraft's entry into California, which may be, depending upon the months involved, 181, 182, 183, or 184 days in length. 6/23/04. (2005-1).

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